

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

2012 NOV 29 P 4: 23

RACETIME INVESTMENTS, LLC,

Plaintiff,

v.

ROBERT J. MOSER,

ROBERT C. MORGAN,

MORGAN RV RESORTS, LLC,

and

RACETIME RV RESORTS, LLC,

Defendants.

CLERK US DISTRICT COURT  
RICHMOND, VIRGINIA

Case No. 3:12CV860

**DEFENDANTS' NOTICE OF REMOVAL OF CIVIL ACTION**

Defendants, Robert J. Moser ("Mr. Moser"), Robert C. Morgan ("Mr. Morgan"), Morgan RV Resorts, LLC ("Morgan RV"), and Racetime RV Resorts, LLC ("Racetime RV") (collectively, "Defendants"), pursuant to 28 U.S.C. §§ 1441 and 1446, file this Notice of Removal of Civil Action to remove this action from the Circuit Court of the County of Spotsylvania (the "Circuit Court") to this Court on the following grounds:

**STATE COURT PLEADINGS**

1. On or about August 29, 2012, Racetime Investments, LLC ("Plaintiff") filed a Complaint against Defendants in the Circuit Court. The Complaint asserts five separate counts, including both derivative claims and individual claims, which stem from a joint venture between Plaintiff and an LLC indirectly owned by Defendants Mr. Morgan and Mr. Moser.

2. In accordance with 28 U.S.C. § 1446(a), a copy of the Summons and Complaint served on Defendants and filed with the Circuit Court in Case No. CL12-894 is attached as Exhibit A. A copy of the responsive pleadings filed in Circuit Court on behalf of Defendants is attached as Exhibit B.

#### SERVICE OF PROCESS

3. Pursuant to an agreement between counsel for Plaintiff and Defendants, counsel for Defendants accepted service of the Complaint on behalf of all Defendants, effective on November 1, 2012, and that Defendants' responsive pleadings would be due on or before November 30, 2012.

#### BASIS FOR REMOVAL

4. Pursuant to 28 U.S.C. § 1446(b), Defendants are filing this Notice of Removal within thirty days of service of Plaintiff's Complaint.

5. This Court has original jurisdiction over this claim pursuant to 28 U.S.C. § 1332(a)(1) in that the amount in controversy exceeds \$75,000.00 and there is complete diversity of citizenship between the parties because:

- a. Plaintiff is a citizen of Delaware. (Compl. ¶ 3.)
- b. Defendant Mr. Moser is a citizen of New York.
- c. Defendant Mr. Morgan is a citizen of New York.
- d. As a limited liability company, Defendant Morgan RV is a citizen of every state in which each member of the limited liability company has citizenship. Morgan RV's members are ultimately citizens of both New York and Pennsylvania. As such, Morgan RV is a citizen of New York and Pennsylvania.

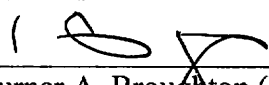
e. Because Defendant Racetime RV is merely a nominal defendant (Compl. at 2 n.1.) and because the actual controversy set forth in the Complaint is between citizens of different states, the citizenship of Defendant Racetime RV is disregarded for the purposes of diversity.

6. Removal of this action is proper pursuant to 28 U.S.C. § 1441(b).

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2).

WHEREFORE, Defendants, by counsel, hereby give notice pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446 of the removal of this action from the Circuit Court of the County of Spotsylvania, Virginia.

ROBERT J. MOSER, ROBERT C. MORGAN,  
MORGAN RV RESORTS, LLC, AND  
RACETIME RV RESORTS, LLC,

By:   
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**CERTIFICATE**

I hereby acknowledge that on this 29<sup>th</sup> day of November, 2012, a copy of the foregoing  
Notice of Removal was mailed, postage prepaid to:

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